



ANNO VICESIMO OCTAVO

# ELIZABETHAE II REGINAE

A.D. 1979

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No. 25 of 1979

An Act to amend the Education Act, 1972-1976.

[Assented to 15th March, 1979]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

## PART I

## PART I

### PRELIMINARY

#### Short titles.

1. (1) This Act may be cited as the "Education Act Amendment Act, 1979".

(2) The Education Act, 1972-1976, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Education Act, 1972-1979".

#### Commence- ment.

2. (1) This Act (with the exception of Part III) shall be deemed to have come into operation on the first day of January, 1978.

(2) Part III of this Act shall come into operation on a day to be fixed by proclamation.

#### Arrangement.

3. This Act is arranged as follows:

PART I—PRELIMINARY

PART II—AMENDMENTS RELATING TO LONG SERVICE  
LEAVE

PART III—OTHER AMENDMENTS TO PRINCIPAL ACT

## PART II

## AMENDMENTS RELATING TO LONG SERVICE LEAVE

4. Section 5 of the principal Act is amended by inserting after the present contents (which are hereby designated subsection (1) thereof) the following subsections:—

Amendment of  
principal Act,  
s. 5—  
Interpretation.

(2) A reference in this Act to the effective service of an officer is a reference to—

(a) the period (if any) of the officer's continuous full-time service in the teaching service;

and

(b) any other period (if any) that is, by determination of the Minister, to be regarded as forming the whole, or part, of the officer's effective service,

but does not include any period that is, by determination of the Minister, not to be regarded as a period of effective service for the purposes of this Act.

(3) The Minister may, by instrument in writing, determine in relation to any specified officers, or officers of any specified class, that a period referred to in the instrument is, or is not, to be regarded as a period of effective service for the purposes of this Act.

5. Section 18 of the principal Act is repealed.

Repeal of  
s. 18 of  
principal Act.

6. Section 19 of the principal Act is amended—

Amendment of  
principal Act,  
s. 19—  
Long service  
leave.

(a) by striking out subsections (2) and (3) and inserting in lieu thereof the following subsections:—

(2) Subject to this section, the long service leave to which an officer is entitled shall be as follows:—

(a) in respect of the first ten years of effective service—  
ninety days' leave on full pay;

(b) in respect of a subsequent year of effective service  
(not being a year of effective service to which  
paragraph (c) of this subsection applies)—nine  
days' leave on full pay;

and

(c) in respect of the sixteenth, or any subsequent, year  
of effective service—

(i) commencing on or after the first day of  
July, 1974, but before the first day of  
July, 1975—a number of days' leave  
calculated in accordance with subsection  
(3) of this section;

(ii) commencing on or after the first day of  
July, 1975—fifteen days' leave on full  
pay.

(3) Where an officer commenced his sixteenth, or a subsequent, year of effective service on or after the first day of July, 1974, but before the first day of July, 1975, the officer is entitled to long service leave in respect of that year of effective service ascertained in accordance with the following formula:—

$$E = \frac{9D}{365} + \frac{15(365 - D)}{365}$$

where—

E is the number of days' leave on full pay to which the officer is entitled (any fraction of less than one-half being disregarded, and any fraction of one-half or more being regarded as one whole day).

D is the number of days commencing on (and including) the day on which the relevant year of effective service commenced and concluding on (and including) the thirtieth day of June, 1975.;

(b) by striking out subsection (5) and inserting in lieu thereof the following subsection:—

(5) An officer may, if he so elects, take leave to which he is entitled under this section on half pay, and, in that event, he is entitled to twice the number of days' leave to which he would have been entitled if he had taken the leave on full pay.;

and

(c) by striking out subsection (8) and inserting in lieu thereof the following subsection:—

(8) Where a person ceases for any reason to be an officer of the teaching service before he has taken long service leave to which he is entitled under this section, he shall be entitled, in lieu of that leave, to a sum ascertained in accordance with the following formula:—

$$P = SD + \left[ S \times \frac{AM}{12} \right]$$

where—

P is the amount payable

S is an amount arrived at by dividing the annual salary of the officer immediately before the cessation of his service by 365

D is the number of days' long service leave on full pay to which the officer would have been entitled in respect of completed years of effective service if he had commenced his long service leave on the day on which he ceased to be an officer

A is the number of additional days' long service leave to which the officer would have been entitled if he had completed a further year of effective service

M is—

(a) where the period of the officer's effective service is not divisible exactly into complete years—the number (if any) of complete months constituting the remainder;

or

(b) in any other case—zero.

7. Section 20 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of  
s. 20 of  
principal Act  
and enactment  
of section in  
its place.

20. (1) Where—

(a) a person who has completed not less than seven years' effective service as an officer;

*Pro Rata*  
long service  
leave.

or

(b) a person who is entitled to *pro rata* long service leave under subsection (2) of this section,

ceases to be an officer of the teaching service before he becomes entitled to long service leave under this Division, he shall be entitled to a sum, by way of *pro rata* long service leave, ascertained in accordance with the following formula:—

$$P = (9SD) + \left[ 9S \times \frac{M}{12} \right]$$

where—

P is the amount payable

S is an amount arrived at by dividing the annual salary of the officer immediately before the cessation of his service by 365

D is the number of complete years in the period of the officer's effective service

M is—

(a) where the period of the officer's effective service is not divisible exactly into complete years—the number (if any) of complete months constituting the remainder;

or

(b) in any other case—zero.

(2) Where an officer has completed not less than five years' effective service and—

(a) is retrenched or retired under Division II of this Part, or retires under Division IV of this Part;

(b) being a female—

(i) resigns on account of pregnancy or resigns and is pregnant at the time her resignation takes effect;

or

(ii) resigns while on accouchement leave;

(c) resigns for the purpose of undertaking the care of a child under the age of two years—

(i) of which the officer is a parent;

or

(ii) which the officer intends to adopt;

or

(d) resigns for reasons that are, in the opinion of the Minister, beyond the control of the officer,

and the effective service of the officer commenced before the first day of January, 1980, the officer is entitled to *pro rata* long service leave.

Amendment of  
principal Act,  
s. 21—  
Payment in  
respect of  
long service  
leave on  
death.

8. Section 21 of the principal Act is amended by striking out subsections (1) and (2) and inserting in lieu thereof the following subsection:—

(1) Where an officer dies, the Minister shall pay to the dependants or personal representative of the officer—

(a) the monetary equivalent of any long service leave to which the officer was entitled on the date of his death;

or

(b) if the officer was not then entitled to long service leave, the sum (if any) by way of *pro rata* long service leave to which the officer would have been entitled if he had resigned—

(i) on the date of his death;

and

(ii) (if, in the circumstances of the case, the reason for resignation is material to the question of determining entitlement to *pro rata* long service leave) for a reason giving rise to such an entitlement.

## PART III

## PART III

## OTHER AMENDMENTS TO PRINCIPAL ACT

## 9. Section 5 of the principal Act is amended—

Amendment of  
principal Act,  
s. 5—  
Interpretation.

- (a) by inserting before the definition of “child of compulsory school age” the following definition:—

“approved non-Government school” means a non-Government school approved by the Minister in accordance with the regulations:

- (b) by striking out the definition of “Government school” and inserting in lieu thereof the following definition:—

“Government school” means a school established under this Act, or the repealed Act, for the purpose of providing courses of instruction in pre-school, primary or secondary education.;

and

- (c) by inserting after the definition of “parent” the following definition:—

“pre-school education” means the provision of courses of training and instruction to children who have not yet attained the age of five years.:

## 10. Section 9 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

Amendment of  
principal Act,  
s. 9—  
General powers  
of the  
Minister.

- (1) The Minister shall establish and maintain such Government schools as may be necessary—

- (a) for the provision of primary and secondary education for children whose parents desire that they should receive education at Government schools;

and

- (b) for the provision of pre-school education (to such an extent as the Minister considers practicable and desirable) for children whose parents desire that they should receive pre-school education at Government schools.

## 11. Section 10 of the principal Act is amended by striking out from subsection (1) the passage “proper primary and secondary education” and inserting in lieu thereof the passage “proper pre-school, primary or secondary education”.

Amendment of  
principal Act,  
s. 10—  
Advisory  
Committees.

## 12. Section 15 of the principal Act is amended—

Amendment of  
principal Act,  
s. 15—  
Appointment,  
etc., to the  
teaching  
service.

- (a) by striking out from subsection (4) the passage “such period not exceeding two years” and inserting in lieu thereof the passage “such period of effective service (not exceeding two years’ effective service)”;

and

## PART III

(b) by striking out from subsection (5) the passage “(other than an officer appointed on probation)” and inserting in lieu thereof the passage “(other than an officer on probation)”.

Amendment of principal Act, s. 26—  
Disciplinary action.

13. Section 26 of the principal Act is amended by striking out subparagraphs (i), (ii) and (iii) of paragraph (a) of subsection (2) and inserting in lieu thereof the following subparagraphs:—

(i) reprimand the officer;

(ii) impose a fine upon the officer not exceeding the amount of one week's salary of the officer;

(iii) reduce the classification of the officer;

or

(iv) suspend the officer from duty (without pay) for a period not exceeding one year.

Amendment of principal Act, s. 39—  
Commencement and duration of an award.

14. Section 39 of the principal Act is amended by striking out subsections (2), (3) and (4) and inserting in lieu thereof the following subsections:—

(2) An award shall come into force or shall be deemed to have come into force (as the case may require) on a date fixed by the award as its date of commencement.

(3) The date of commencement of an award shall be a date not earlier than the date on which the proceedings in which the award is made were commenced unless the Board considers that there are special reasons for fixing an earlier date.

(4) An award shall remain in force (subject to any variations made by the Board) until the date fixed by the award for its expiration, or if no such date is fixed, until rescinded by the Board.

Amendment of principal Act, s. 55—  
Constitution of Teachers Registration Board.

15. Section 55 of the principal Act is amended by striking out from paragraph (d) of subsection (2) the passage “the Association of Independent Schools in South Australia” and inserting in lieu thereof the passage “the South Australian Independent Schools Board of Headmasters and Headmistresses Incorporated”.

Amendment of principal Act, s. 63—  
Unregistered persons not to hold certain appointments.

16. Section 63 of the principal Act is amended—

(a) by striking out from paragraph (a) of subsection (1) the passage “non-Government school” and inserting in lieu thereof the passage “approved non-Government school”;

and

(b) by striking out from subparagraph (ii) of paragraph (a) of subsection (1) the passage “primary or secondary education” and inserting in lieu thereof the passage “pre-school, primary or secondary education”.

Amendment of principal Act, s. 72—  
Records to be kept in non-Government schools.

17. Section 72 of the principal Act is amended by striking out from subsections (1), (2) and (3) the passage “a non-Government school” wherever it occurs and inserting in lieu thereof, in each case, the passage “an approved non-Government school”.

## PART III

Amendment of  
principal Act,  
s. 73—  
Inspection of  
non-  
Government  
schools.

**18. Section 73 of the principal Act is amended—**

- (a) by striking out from subsections (1) and (2) the passage “any non-Government School” wherever it occurs and inserting in lieu thereof, in each case, the passage “any approved non-Government school”;

and

- (b) by inserting after subsection (2) the following subsections:—

(3) Any person authorized in writing by the Minister to carry out an inspection under this subsection may, at any reasonable time, enter and inspect any non-Government school for the purpose of determining whether approval should be granted in respect of the school in pursuance of this Act, or an approval previously granted in respect of the school should be revoked.

(4) A person who prevents an authorized person from carrying out an inspection under subsection (3) of this section, or hinders any such inspection, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

**19. Section 74 of the principal Act is amended—**

Amendment of  
s. 74 of  
principal Act—  
Schools and  
school  
districts.

- (a) by inserting before subsection (1) the following subsection:—

(1) In this Part—

“school” means a Government school or an approved non-Government school.;

and

- (b) by redesignating the former subsections (1) and (2) as subsections (2) and (3).

**20. Section 81 of the principal Act is amended by striking out from subsection (1) the passage “government or non-Government”.**

Amendment of  
principal Act,  
s. 81—  
Evidentiary  
provision.

**21. Section 82 of the principal Act is amended by striking out subsections (2), (3) and (4) and inserting in lieu thereof the following subsections:—**

Amendment of  
principal Act,  
s. 82—  
Determination  
of courses of  
instruction.

(2) For the purpose of assisting the Director-General to determine the curriculum in accordance with which instruction is to be provided, the Minister may appoint—

- (a) an Advisory Curriculum Board;

and

- (b) such advisory committees as the Minister may determine on the recommendation of the Director-General.

(3) The Advisory Curriculum Board, and any committee appointed under this section, shall consist of—

- (a) such officers of the Department and of the teaching service;

and



**PART III**

- (b) such representatives of approved non-Government schools and other organizations,

as may be determined by the Minister on the recommendation of the Director-General.

- (4) A member of the Advisory Curriculum Board, or a committee appointed under this section, shall hold office upon such terms and conditions as may be determined by the Minister.

Amendment of  
principal Act,  
s. 85—  
Borrowing  
powers of  
councils.

- 22.** Section 85 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsections:—

- (3) A guarantee shall not be given under this section unless—

- (a) the Schools Loans Advisory Committee constituted under this Part has recommended that the guarantee be given;
- (b) the conditions of any administrative instruction issued by the Director-General under subsection (3a) of this section have been complied with;
- (c) the Treasurer is satisfied that the terms and conditions of the loan or proposed loan are reasonable;

and

- (d) the council seeking the guarantee has given such undertakings, or entered into such agreements, as the Treasurer may require.

(3a) The Director-General may from time to time issue administrative instructions relating to the borrowing of money by councils.

(3b) The Director-General may vary or revoke any administrative instruction given under this section.

Amendment of  
principal Act,  
s. 107—  
Regulations.

- 23.** Section 107 of the principal Act is amended by inserting after paragraph (s) of subsection (2) the following paragraph:

- (sa) regulating the granting, or withdrawal, of approval in respect of non-Government schools;

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor